IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO.1472 OF 1998

The Board of Trustees of the
Port of Mumbai, a body corporate
constituted under the provisions of the
Major Port Trusts Act,1963 as amended
by the Major Port Trusts Amendment
Act, 1974 having its principal place
of business at Vijay Deep, Shoorji
Vallabhdas Marg, Ballard Estate,

Mumbai-400038

.. Plaintiffs

M/s Sunrays Offshore Services Pvt Ltd
a company registered under the
Companies Act, having its registered
registered office at Fountain,
Nanabhai Lane, Fort, Mumbai-400001.

..Defendants

Mr.V.J.Makhija for Plaintiffs

CORAM : A.S.OKA, J

DATED : 30th July, 2007

JUDGMENT

1. Heard learned counsel appearing for the plaintiff. He has tendered on record affidavit in lieu of examination-in-chief of one Satish Kumar, Assistant Docks Manager of the plaintiff. The said affidavit is marked X for identification and is taken on record. He has also tendered compilation of true copies of various documents on record. The said compilation is marked Y (colly) for identification and is taken on record.

2. According to the case of the plaintiff, they

are owners of the docks at Mumbai and are rendering services and performing duties which are prescribed under sections 42 and 43 of the Major Port Trusts Act. The plaintifs are entitled to levy and recover charges for services rendered.

3. On 17th March, 1993, the defendants informed the plaintiffs that they have been appointed as the agents for M/s Magna Charter Line Inc based in Dubai and requested the plaintiffs to allot to them line/agency code and a suitable area to carry out stuffing and destuffing operations in respect of the Containers of their line. By the said letter the defendants had agreed to pay all the related charges incurred on account of M/s Magna Charter Line Inc. It is the further case of the plaintiffs that the defendants informed the plaintiffs that M/s D.B.Co & Sons were to carry out stevedoring operations. By letter dated 22nd March, 1993 the plaintiffs allotted to the defendants the agency code and line code and nominated the areas for Containers. As per the case of the plaintiffs, the defendants incurred liability for port trust charges. The defendants failed to make payment of charges to the plaintiffs. Therefore, vide letter dated 18th November, 1996 the plaintiffs called upon the defendants to pay a sum of Rs.3,07,430/- as port charges and a sum of Rs.2,77,747/- as sundries. There is another letter of demand dated 18th

January, 1997 making a demand of the amount payable by the defendants as on 31st December, 1996.

4. By another letter dated 3rd March 1997 the plaintiffs called upon the defendants to pay outstanding dues of Rs.5,24,684/-. There are two more letters dated 20th September, 1997 and 31st October, 1997 sent by the plaintiffs to the defendants calling upon them to pay the outstanding amount. In the last letter, interest at the rate of 18 % p.a. has been claimed on the outstanding amount. As compliance was not made present suit was filed.

5. By the affidavit of Mr.Satish Kumar, the plaintiffs have proved the claim in the suit. It is stated in the affidavit that the original documents which are referred to in the said affidavit have been misplaced and the true photostat copies of the original documents have been placed on record. The plaintiffs have made out a case for leading secondary evidence of the original documents, the photo copies of which are produced along with a compilation marked Y. The said documents have also been duly proved.

6. In the affidavit of evidence, the plaintiffs have stated that they have recovered a sum of Rs.6,06,106/- by realisation of bank guarantee and

now i.e.upto 26th July, 2007 outstanding amount as against the defendants is Rs.1,62,627/-.

7. There is no written statement filed by the defendants. The plaintiffs have proved that as on 26th July, 2007, the defendants are liable to pay a sum of Rs.1,62,627/-. Prayer for interest is at the rate of 18 % p.a. Considering the fact that there is no stipulation between the parties as regards payment of interest and considering realisation of a substantial amount, I am allowing interest at 6 % p.a.

8. Hence, there will be a decree against the defendants in terms of prayer clauses (a) and (b) with a modification that the decretal amount will be Rs.1,62,627/- together with interest thereon at the rate of 6 % p.a. from the date of the institution of the suit till realisation/payment.

9. The plaintiffs will be entitled to refund of Court fees,if any,as per rules.

Certified copy is expedited.

(A.S.Oka, J)